

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 275 of 2016**

Rahul Shukla, sonof Shri Manoj Kumar Shukla, aged about 29 years, resident of Kamthi Line, Rajnandgaon (C.G.) presently at C-51, GMDC, Post-ATPS Colony, District Kachh (Gujarat). (Plaintiff)

---- Petitioner**Versus**

1. Manoj Kumar Shukla, son of Shri Chandra Shekhar Shukla, aged about 65 years, presently at Rananuj Apartment, Magarpara, Jarhabhata Road, Bilaspur (C.G.)
2. Smt. Meera, wife of Shri Dinesh Thakur & daughter of Late Chandrasekhar Shukla, aged about 58 years, resident of Juni Hatri, Lohar Chowk, Purani Basti, Raipur.
3. Smt. Poonam Shukla, widow of Late Santosh Kumar Shukla, aged about 34 years,
4. Kumari Deepti Shukla, daughter of Poonam Shukla, aged about 18 years.
5. Kumari Richa Shukla, daughter of Santosh Shukla, aged about 10 years.
6. Kumari Dipika Shukla, daughter of Santosh Shukla, aged about 07 years.
7. Guruprasad, son of Santosh Shukla, aged about 05 years.

Nos. 4 to 7 are minors through their natural guardian mother- Smt. Poonam Shukla, widow of Late Santosh Kumar Shukla.

All residents of Kamthi Line, Rajnandgaon (C.G.)

8. State of Chhattisgarh, through the Collector, Rajandgaon (C.G.)

--- Respondents

For Petitioner : Shri Raza Ali, Advocate.
 For Respondent No. 3 : Shri Anup Majumdar, Advocate.
 For Respondent No. 8 : Shri Aditya Sharma, PL

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****30/08/2018**

(1) By the impugned order dated 29.03.2016, application filed by respondents No. 3 to 7 under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (henceforth "CPC") for impleadment of son and daughter of defendant No.1 has been allowed.

(2) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(3) In a suit for partition and possession filed by plaintiff against his father Manoj Kumar Shukla, application for impleading plaintiff's brother and sister has been allowed by the impugned order.

(4) The trial Court has considered the application and found that since the suit is for partition and possession and merely dispute is between brother, sister and father, therefore, the plaintiffs' brother & sister are necessary / proper party and granted that application. In the considered opinion of this Court, looking to the nature of suit for partition and possession; and the fact that son has filed a suit against his father Manoj Kumar Shukla (defendant No.1), proposed brother and sisters of the plaintiff cannot be held to be not necessary / proper parties, as such, the trial Court is absolutely justified in granting application, in which I do not find any illegality or perversity warranting interference under Article 227 of the Constitution of India.

(5) Thus, writ petition, being devoid of merit, is liable to be and is hereby dismissed. However, looking to the fact that the suit is pending since 27.03.2008, the trial Court is directed to decide the suit expeditiously preferably within a period of four weeks from the date of receipt of certified copy of this order.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

